



**DEVELOPMENT  
SERVICES  
DEPARTMENT**

# The City of Morgantown

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July 18, 2013

Hometown Development, LLC  
c/o Richard Lane  
711 Second Street  
Portsmouth, OH 45662

**RE: V13-26 through V13-29 / BB&T Corporation / 466 and 496 High Street  
Tax Map 26, Parcels 104 to 116**

Dear Mr. Lane:

This letter is to notify you of the decisions made by the Board of Zoning Appeals concerning the above referenced variance petitions relating to the proposed development at 466 and 496 High Street. The decisions are as follows:

**Board of Zoning Appeals, July 17, 2013:**

**V13-26 – Variance petition concerning “Setbacks and Encroachments”**

- A. Each of the Findings of Fact was found in the positive as stated in Addendum A of this letter.
- B. The Board approved variance petition V13-26 as requested without conditions.

**V13-27 – Variance petition concerning “Transparency”**

- A. Each of the Findings of Fact was found in the positive as stated in Addendum A of this letter.
- B. The Board approved variance petition V13-27 as requested without conditions.

**V13-28 – Variance petition concerning “Minimum Building Height”**

- A. Each of the Findings of Fact was found in the positive as stated in Addendum A of this letter.
- B. The Board approved variance petition V13-28 as requested with the following condition:
  - 1. That the extended parapets along the Willey Street and Spruce Street façades and the articulated building entrance feature at the intersection of Willey Street and Spruce Street be developed as illustrated on the plans reviewed and approved herein.

**V13-29 – Variance petition concerning “Drive-Through Stacking and Private Parking Facilities”**

- A. Each of the Findings of Fact was found in the positive as stated in Addendum A of this letter.
- B. The Board approved variance petition V13-29 as requested with the following condition:
  - 1. That row of six (6) 60° parking spaces closest to the ATM lane be reserved for employee parking only and accordingly marked with pavement stenciling and/or signage to the satisfaction of the Planning Division.

These decisions may be appealed to the Circuit Court of Monongalia County within thirty (30) days. Any work done relating to decisions rendered by the Board of Zoning Appeals during this thirty-day period is at the sole financial risk of the petitioner.

The above referenced approvals are set to expire in twelve (12) months unless it can be demonstrated that they have been activated as evidenced by permits, construction, or required licenses. This expiration deadline may be extended to eighteen (18) months upon prior written request of the Board.

Please note that building permits must be issued prior to the commencement of work for which the variance approvals were granted herein.

Should you have any questions or require further clarification, please contact the undersigned. We look forward to serving the development's planning and permitting needs.

Respectfully,

A handwritten signature in black ink, reading "Stacy Hollar". The signature is written in a cursive, flowing style.

Stacy Hollar  
Executive Secretary  
shollar@cityofmorgantown.org

## **ADDENDUM A**

### **Approved Findings of Fact**

#### **V13-26 – Setbacks and Encroachments**

Finding of Fact No. 1 – There are exceptional or extraordinary circumstances or conditions applicable to this property or to the intended use, that generally do not apply to other properties or uses in the same vicinity, because:

The site in question has frontage on three streets, with the proposed redevelopment building being on a corner. The site also has significant slope that would require increased retaining walls as the building is pulled closer to the corner, compromising or eliminating ADA accessibility and causing security concerns due to a “tunnel effect” along Willy Street and Spruce Street.

Finding of Fact No. 2 – The variance is necessary for the preservation and enjoyment of a substantial property right that is possessed by other properties in the same vicinity and zoning district, but which denied to this property, because:

There are numerous nonconformity that have been created but zoning code updates in the B-4 District. Without a variance, the applicant affirms that BB&T would be forced to maintain their dated retail concept which is currently more nonconforming than proposed. The variance would allow the redevelopment of the building to be 50% closer to Willy Street than the existing structure.

Finding of Fact No. 3 – The granting of this variance not be harmful to the public welfare and will not harm property or improvements in the vicinity and zoning district in which the subject property is located, because:

A preexisting nonconformity, created by a zoning code update, exists. The use will remain the same and the nonconformity will be diminished as new building will be significantly closer to Willey street than the current nonconforming building.

Finding of Fact No. 4 – The granting of this variance not alter the land-use characteristics of the vicinity and zoning district, or diminish the market value of adjacent properties, or increase traffic congestion on public streets, because:

The land use will not be affected and market value will increase due to capital outlay into the property. Access and overall congestion should decrease as the number of drive thru lanes and overall building square footage will be decreased. The retailer sees this site a pedestrian focused location.

## **V13-27 – Transparency**

Finding of Fact No. 1 – There are exceptional or extraordinary circumstances or conditions applicable to this property or to the intended use, that generally do not apply to other properties or uses in the same vicinity, because:

The property fronts on two streets which requires significantly more window transparency than other buildings in district. The nature of the business requires more security and privacy than other buildings.

Finding of Fact No. 2 – The variance is necessary for the preservation and enjoyment of a substantial property right that is possessed by other properties in the same vicinity and zoning district, but which denied to this property, because:

There are nonconforming properties within the district, particularly several downtown buildings having frontage on two or more streets. The proposed redevelopment improves upon a nonconforming structure with regard to window transparency.

Finding of Fact No. 3 – The granting of this variance not be harmful to the public welfare and will not harm property or improvements in the vicinity and zoning district in which the subject property is located, because:

The proposed redevelopment will improve upon a currently dated, nonconforming structure. The use will not change.

Finding of Fact No. 4 – The granting of this variance not alter the land-use characteristics of the vicinity and zoning district, or diminish the market value of adjacent properties, or increase traffic congestion on public streets, because:

This redevelopment project will enhance property values with the infusion of building, hard-scape and landscape improvements. Traffic will be reduced by a reduction of drive thru lanes as well as an improvement in traffic patterns that enter and exit site on Willey and with an “ingress only” access proposed versus the “ingress/egress” access currently in place.

## **V13-28 – Minimum Building Height**

**Finding of Fact No. 1** – There are exceptional or extraordinary circumstances or conditions applicable to this property or to the intended use, that generally do not apply to other properties or uses in the same vicinity, because:

The building ownership is corporate therefore speculative second floor space cannot be considered and would, accordingly to the petitioner, prohibit the redevelopment from occurring.

**Finding of Fact No. 2** – The variance is necessary for the preservation and enjoyment of a substantial property right that is possessed by other properties in the same vicinity and zoning district, but which denied to this property, because:

Although not the preferred design pattern in the B-4 District, there are other buildings within the downtown area that do not comply with the minimum building height standard, particularly similar bank drive-through facilities.

**Finding of Fact No. 3** – The granting of this variance not be harmful to the public welfare and will not harm property or improvements in the vicinity and zoning district in which the subject property is located, because:

The proposed redevelopment will improve upon a currently dated, nonconforming structure. The use will not change.

**Finding of Fact No. 4** – The granting of this variance not alter the land-use characteristics of the vicinity and zoning district, or diminish the market value of adjacent properties, or increase traffic congestion on public streets, because:

This redevelopment project will enhance property values with the infusion of building, hard-scape and landscape improvements. Traffic will be reduced by a reduction of drive thru lanes as well as an improvement in traffic patterns that enter and exit site on Willey with an “ingress only” access proposed verses the “ingress/egress” access currently in place.

## **V13-29      Drive-Through Stacking and Private Parking Facilities**

**Finding of Fact No. 1** – There are exceptional or extraordinary circumstances or conditions applicable to this property or to the intended use, that generally do not apply to other properties or uses in the same vicinity, because:

The site in question has frontage on three streets. As this is a redevelopment rather than a new development project, room does not appear to exist to comply with the requirement. There appears to be sufficient room for the stacking of vehicles within the access drive from Willey Street.

**Finding of Fact No. 2** – The variance is necessary for the preservation and enjoyment of a substantial property right that is possessed by other properties in the same vicinity and zoning district, but which denied to this property, because:

There does not appear to be a drive-through bank location within the B-4 District that meets the current minimum stacking requirement. Additionally, MVB Bank was granted similar variance relief by the Board on 20-Jun-2012 under Case No. V12-19 at the Earl Core Road location.

**Finding of Fact No. 3** – The granting of this variance not be harmful to the public welfare and will not harm property or improvements in the vicinity and zoning district in which the subject property is located, because:

A preexisting nonconformity, created by a zoning code update, exists. The use will remain the same and the nonconformity will be diminished as the number of drive thru aisles will be reduced in half, more or less.

**Finding of Fact No. 4** – The granting of this variance not alter the land-use characteristics of the vicinity and zoning district, or diminish the market value of adjacent properties, or increase traffic congestion on public streets, because:

The land use will not be affected and market value will increase due to capital outlay into the property. Access and overall congestion should decrease as the number of drive thru lanes will be decreased. The retailer sees this site a pedestrian focused location.